

4153

2009-2010 Regular Sessions

I N S E N A T E

April 15, 2009

Introduced by Sens. MONTGOMERY, DILAN, MONSERRATE -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to nutritional standards in public schools

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative intent. It is the intent of the legislature to
2 improve upon the health and well-being of children attending the public
3 schools by providing guidance to public schools regarding nutritional
4 standards. Healthy foods are crucial to the health and physical develop-
5 ment of children. The implementation of health-conscious efforts in
6 developing the food service programs of our public schools will not only
7 provide immediate benefits to children but will also teach them healthy
8 habits to last their lifetimes. Currently, there is a lack of statutory
9 guidance on nutritional standards outside of the standards provided by
10 the United States department of agriculture under its reimbursable meal
11 program. Accordingly, this legislation will require all foods served or
12 sold at public schools outside of the federal school meal program to
13 meet specific requirements relating to the fat and sugar content of
14 foods and portion sizes of foods.

15 S 2. The education law is amended by adding a new section 920 to read
16 as follows:

17 S 920. SCHOOL NUTRITIONAL STANDARDS. 1. SCHOOL NUTRITIONAL POLICY. A.
18 THE BOARD OF EDUCATION OF EVERY COMMON, UNION FREE, CENTRAL AND CITY
19 SCHOOL DISTRICT WITHIN THE STATE SHALL ADOPT A POLICY WHICH IMPLEMENTS
20 THE NUTRITIONAL STANDARDS REQUIRED BY THIS SUBDIVISION AND SHALL POST
21 THIS SECTION OF LAW AND ANY ADDITIONAL RULES AND REGULATIONS RELATING TO
22 SCHOOL NUTRITION AND PHYSICAL EDUCATION REQUIREMENTS IN PUBLIC VIEW
23 WITHIN ALL SCHOOL CAFETERIAS. THE NUTRITIONAL STANDARDS PROVIDED IN
24 THIS SECTION ARE INTENDED TO BRING ALL FOOD AND BEVERAGE ITEMS SERVED OR

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 SOLD WITHIN THE PUBLIC SCHOOLS OF THE STATE INTO COMPLIANCE WITH THE
2 NUTRITIONAL STANDARDS PROMULGATED BY THE UNITED STATES DEPARTMENT OF
3 AGRICULTURE UNDER ITS REIMBURSABLE MEAL PROGRAM, INCLUDING FOOD AND
4 BEVERAGE ITEMS OUTSIDE OF THE REIMBURSABLE MEAL PROGRAM.

5 B. EXCEPT AS PROVIDED IN PARAGRAPH C OF THIS SUBDIVISION ANY FOODS
6 SERVED OR SOLD TO PUPILS DURING BREAKFAST AND LUNCH PERIODS AT ELEMENTA-
7 RY SCHOOLS, MIDDLE SCHOOLS AND HIGH SCHOOLS SHALL BE SERVED OR SOLD AS A
8 FULL MEAL.

9 C. FRESH FRUIT, NON-FRIED VEGETABLES, LEGUMES, BEVERAGES, DAIRY
10 PRODUCTS OR GRAIN PRODUCTS MAY BE SERVED OR SOLD AS INDIVIDUAL ITEMS
11 DURING BREAKFAST AND LUNCH PERIODS AT ELEMENTARY SCHOOLS, MIDDLE SCHOOLS
12 AND HIGH SCHOOLS IF SUCH ITEMS MEET THE FOLLOWING REQUIREMENTS:

13 (1) NO MORE THAN THIRTY-FIVE PERCENT OF THE CALORIES IN SUCH ITEMS
14 SHALL BE FROM FAT, WITH THE EXCEPTION OF FAT FROM NUTS OR SEEDS;

15 (2) NO MORE THAN TEN PERCENT OF THE TOTAL CALORIES IN SUCH ITEMS SHALL
16 BE FROM SATURATED FAT AND TRANS FAT COMBINED; AND

17 (3) NO MORE THAN THIRTY-FIVE PERCENT OF THE TOTAL WEIGHT OF SUCH ITEMS
18 SHALL BE COMPOSED OF SUGAR, WITH THE EXCEPTION OF NATURAL SUGARS IN
19 FRUITS, VEGETABLES, AND DAIRY PRODUCTS.

20 D. AT ANY TIME, NON-CARBONATED OR CARBONATED WATERS WITHOUT ADDED
21 SWEETENERS, MILK, INCLUDING, BUT NOT LIMITED TO, ONE PERCENT OR FAT-FREE
22 CHOCOLATE MILK, SOY MILK, RICE MILK AND OTHER SIMILAR DAIRY OR NONDAIRY
23 MILK, AND DRINKS COMPOSED OF AT LEAST FIFTY PERCENT FRUIT JUICE AND
24 WHICH CONTAIN NO ADDED SWEETENERS MAY BE SERVED OR SOLD TO PUPILS AT
25 ELEMENTARY SCHOOLS, MIDDLE SCHOOLS AND HIGH SCHOOLS. NO OTHER DRINKS
26 MAY BE SERVED OR SOLD TO PUPILS AT ELEMENTARY SCHOOLS, MIDDLE SCHOOLS
27 AND HIGH SCHOOLS EXCEPT AS PROVIDED IN PARAGRAPH F OF THIS SUBDIVISION.

28 E. NO BEVERAGE ITEM, OTHER THAN DRINKING WATER, OR MILK, INCLUDING,
29 BUT NOT LIMITED TO, ONE PERCENT OR FAT-FREE CHOCOLATE MILK, SOY MILK,
30 RICE MILK AND OTHER SIMILAR DAIRY AND NONDAIRY MILK, WHICH EXCEEDS
31 TWELVE OUNCES PER SERVING SHALL BE SERVED OR SOLD TO PUPILS EXCEPT AS
32 PROVIDED IN PARAGRAPH F OF THIS SUBDIVISION.

33 F. THE SERVING OF OR SALE OF FOOD AND DRINKS WHICH DO NOT COMPLY WITH
34 THE STANDARDS PROVIDED IN PARAGRAPHS C, D AND E OF THIS SUBDIVISION
35 SHALL BE PERMITTED IF THE SERVING OF OR SALE OF SUCH FOOD AND DRINKS
36 TAKES PLACE AT LEAST ONE-HALF HOUR AFTER THE END OF THE SCHOOL DAY.

37 G. NO "JUNK FOOD" SHALL BE SERVED OR SOLD AT ANY TIME. "JUNK FOOD"
38 SHALL MEAN FOODS AND DRINKS OF MINIMAL NUTRITIONAL VALUE, INCLUDING
39 THOSE ITEMS PROHIBITED UNDER SECTION NINE HUNDRED FIFTEEN OF THIS ARTI-
40 CLE, AND FOODS AND DRINKS WHICH CONTAIN A FAT CONTENT OR SUGAR CONTENT
41 WHICH DOES NOT COMPLY WITH THE STANDARDS PROVIDED IN SUBPARAGRAPHS ONE,
42 TWO AND THREE OF PARAGRAPH C OF THIS SUBDIVISION.

43 H. VENDING MACHINES THAT CONTAIN FOOD ITEMS OR BEVERAGE ITEMS THAT DO
44 NOT MEET THE REQUIREMENTS OF PARAGRAPHS C AND D OF THIS SUBDIVISION
45 SHALL REMAIN LOCKED OR BE RENDERED INOPERABLE UNTIL AT LEAST ONE-HALF
46 HOUR AFTER THE END OF THE SCHOOL DAY.

47 I. ELEMENTARY SCHOOLS, MIDDLE SCHOOLS AND HIGH SCHOOLS SHALL GIVE
48 PREFERENCE TO FOODS AND BEVERAGES THAT CONTAIN A HIGHER LEVEL OF CALCI-
49 UM, AND ARE EQUAL OR LOWER IN PRICE, THAN PRODUCTS OF THE SAME TYPE AND
50 QUALITY.

51 2. RULES AND REGULATIONS. THE COMMISSIONER, IN CONSULTATION WITH THE
52 COMMISSIONER OF HEALTH, IS HEREBY AUTHORIZED AND DIRECTED TO PROMULGATE
53 ANY RULES AND REGULATIONS NECESSARY FOR THE EFFECTIVE IMPLEMENTATION OF
54 SUBDIVISION ONE OF THIS SECTION AND TO IMPROVE NUTRITIONAL STANDARDS IN
55 PUBLIC SCHOOLS STATEWIDE, AS WELL AS TO IMPLEMENT THE FOLLOWING OBJEC-
56 TIVES:

1 A. ENCOURAGE FUNDRAISERS THAT PROMOTE GOOD HEALTH HABITS;
2 B. INCREASE THE PROMOTION, AVAILABILITY AND APPEAL OF FRESH FRUITS AND
3 VEGETABLES, BY MEANS SUCH AS PROMOTING SCHOOL GARDENS AND COLLABORATION
4 WITH FARMERS' MARKETS;
5 C. ENSURE, TO THE GREATEST EXTENT POSSIBLE, THAT FOOD IS SERVED FRESH
6 AND IN AN APPEALING MANNER;
7 D. ENCOURAGE THAT ALL PUPILS ARE ALLOTTED AT LEAST THIRTY MINUTES TO
8 EAT LUNCH AND AT LEAST TWENTY MINUTES TO EAT BREAKFAST, WHERE APPLICA-
9 BLE;
10 E. ENSURE REGULAR PROFESSIONAL DEVELOPMENT FOR FOOD SERVICE STAFF;
11 F. ENCOURAGE PUPILS TO PARTICIPATE IN THE SCHOOL LUNCH PROGRAM;
12 G. ENSURE THAT NUTRITION EDUCATION IS INTEGRATED INTO SCHOOL CURRIC-
13 ULA; AND
14 H. ENCOURAGE PUPILS TO ENGAGE IN HEALTHFUL LEVELS OF PHYSICAL ACTIV-
15 ITY, BY ENSURING THAT PHYSICAL EDUCATION IS INTEGRATED INTO SCHOOL
16 CURRICULA AND ENFORCING EXISTING PHYSICAL EDUCATION REQUIREMENTS.
17 3. REPORT. FOLLOWING THE END OF THE TWO THOUSAND TEN--TWO THOUSAND
18 ELEVEN SCHOOL YEAR, THE COMMISSIONER, IN COLLABORATION WITH THE COMMIS-
19 SIONER OF HEALTH, SHALL CAUSE TO BE MADE A REPORT ASSESSING THE SUCCESS,
20 IN SCHOOLS ACROSS THE STATE, OF THE IMPLEMENTATION OF THE NUTRITIONAL
21 STANDARDS PROMULGATED IN THIS SECTION. SUCH REPORT SHALL CONTAIN AN
22 EVALUATION OF THE EFFECTIVENESS OF THE NUTRITIONAL STANDARDS IN IMPROV-
23 ING THE HEALTH AND WELL-BEING OF PUPILS, AND ANY RECOMMENDATIONS RELAT-
24 ING THERETO. SUCH REPORT SHALL BE SUBMITTED TO THE GOVERNOR, THE TEMPO-
25 RARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, AND ANY
26 APPROPRIATE COMMITTEES OF THE LEGISLATURE CONCERNED WITH NUTRITIONAL
27 STANDARDS AND HEALTH IN PUBLIC SCHOOLS.
28 S 3. This act shall take effect on the first of September next
29 succeeding the date on which it shall have become a law.